IDAHO
DEPARTMENT OF LABOR
C.L. "BUTCH" OTTER, GOVERNOR
KENNETH D. EDMUNDS, DIRECTOR

WIAB 04-14

DATE: July 15, 2014

TO: All WIA Subrecipients

FROM: Marsha Wright, Workforce Bureau Chief, Employment and Business Division

SUBJECT: TEGL 02-14: Eligibility of Deferred Action for Childhood Arrivals Participants for Workforce Investment Act and Wagner-Peyser Act Programs

Attached is Training and Employment Guidance Letter (TEGL) 02-14. This TEGL provides guidance concerning the eligibility of individuals granted relief under the Deferred Action for Childhood Arrivals (DACA) Initiative participants with employment authorization documents for program eligibility for Workforce Investment Act (WIA) programs and Wagner-Peyser Act programs.

The DACA process may result in a 2-year period of "deferred action," or relief from removal from the country or from entering into removal proceedings, subject to renewal, and issuance of employment authorization for the period of deferred action. Under existing regulations, an individual whose case has been deferred is eligible to receive employment authorization for the period of deferred action, provided he or she can demonstrate "an economic necessity for employment."

Section 188 of WIA contains a specific nondiscrimination provision that provides that participation in WIA is available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States. Individuals with employment authorization qualify under this provision as "immigrants authorized by the Attorney General to work in the United States." Therefore, DACA participants with employment authorization may access any WIA services for which they otherwise would quality.

The Wagner-Peyser Act provides employment services to help individuals find meaningful employment and to help employers find the skilled workers that they need. While Wagner-Peyser Act services are not authorized by WIA, they are often delivered alongside WIA services by American Job Centers. Wagner-Peyser Act services are available to all DACA participants.

Please see the attached TEGL 02-14 for more details regarding this subject.

Questions may be directed to any member of the grants management team.

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION OWI
	CORRESPONDENCE SYMBOL WIA
	DATE July 14, 2014

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 02-14

TO: AMERICAN JOB CENTERS
STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
STATE WORKFORCE LIAISONS
STATE AND LOCAL WORKFORCE BOARD CHAIRS AND DIRECTORS
ALL WIA GRANT RECIPIENTS

FROM: PORTIA WU
Assistant Secretary

SUBJECT: Eligibility of Deferred Action for Childhood Arrivals Participants for Workforce Investment Act and Wagner-Peyser Act Programs

1. **Purpose.** The purpose of this Training and Employment Guidance Letter (TEGL) is to provide guidance to states and grantees concerning the eligibility of individuals granted relief under the Deferred Action for Childhood Arrivals (DACA) Initiative (DACA participants) with employment authorization documents (employment authorization) for program eligibility for Workforce Investment Act (WIA) programs and Wagner-Peyser Act programs.

2. **References.**
   - Title I, WIA, as amended (29 U.S.C. 2801 *et seq.*);
   - The Wagner-Peyser Act, as amended (29 U.S.C. 49 *et seq.*);
   - Chapter 2 of Title II of the Trade Act of 1974, as amended (Pub. L. 93-618) (1974 Act and, as amended, Trade Act); and
   - Training and Employment Guidance Letter (TEGL) No. 25-04, *Participant Eligibility Guidance* (April 11, 2005).

3. **Background.** On June 15, 2012, Department of Homeland Security (DHS) announced its "Deferred Action for Childhood Arrivals" (DACA) process for individuals who came to the United States as children and meet the following key guidelines:
   - Were under the age of 31 as of June 15, 2012;
   - Came to the United States before reaching their 16th birthday;
   - Have continuously resided in the United States since June 15, 2007, up to the present time;
   - Were physically present in the United States on June 15, 2012, and at the time of making their request for consideration of deferred action with U.S. Citizenship and Immigration Services (USCIS);

RESCISSIONS	EXPIRATION DATE
None	Continuing

- Entered without inspection before June 15, 2012, or their lawful immigration status expired as of June 15, 2012;
- Are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, or other equivalent State-authorized exam in the United States, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and
- Have not been convicted of a felony, significant misdemeanor, three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.

The DACA process may result in a 2-year period of "deferred action," or relief from removal from the country or from entering into removal proceedings, subject to renewal, and issuance of employment authorization for the period of deferred action. Under existing regulations, an individual whose case has been deferred is eligible to receive employment authorization for the period of deferred action, provided he or she can demonstrate "an economic necessity for employment."

Section 188 of WIA contains a specific nondiscrimination provision that provides that participation in WIA is available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States. Individuals with employment authorization qualify under this provision as "immigrants authorized by the Attorney General to work in the United States." Therefore, DACA participants with employment authorization may access any WIA services for which they otherwise would qualify.

4. **Workforce Investment Act Programs.** This TEGL applies to all programs authorized under WIA, including: Adult, Dislocated Worker, and Youth formula programs; National Emergency Grants; Section 166 Indian and Native American Program; Section 167 National Farmworker Jobs Program; Reintegration of Ex-Offender Program; YouthBuild; and Job Corps.

   State Workforce Agencies and WIA grant recipients must have policies and procedures in place to ensure that the intensive or training services provided to DACA participants under WIA programs are limited to those DACA participants who have employment authorization. Appropriate documentation of employment authorization must include self-attestation at a minimum. The appropriate method of verifying an applicant's employment authorization will depend upon the requirements and needs of the particular program, including, but not limited to the:
   - nature of the benefits to be provided;
   - need for benefits to be provided on an expedited basis;
   - length of time during which benefits will be provided;
   - cost of providing the benefits;
   - length of time it will take to verify based on a particular method; and
   - cost of a particular method of verification.

For example, it would be impractical and administratively burdensome to require individuals seeking self-services to be screened for employment authorization as doing so would require a greater investment of resources than likely cost savings. In contrast, a higher level of verification may be appropriate for the longer and more costly services such as training.

5. **Job Corps.** Section 188's nondiscrimination provision applies to the Job Corps program, which is authorized under title I-C of WIA. As a result, DACA participants who meet program eligibility requirements qualify for Job Corps if they have employment authorization. ETA will separately issue a Job Corps Policy and Requirements Handbook change notice with further instructions for operators of Job Corps programs.

6. **National Farmworker Jobs Program.** TEGL No. 25-04 describes eligibility determination requirements for the WIA National Farmworker Jobs Program (NFJP). As indicated in that TEGL, NFJP grantees are required to have an eligibility determination system that enables the generation of a record supporting eligibility determinations and enrollment decisions. Under that longstanding guidance, the Department expects NFJP grantees to obtain source documentation that verifies the information provided by applicants for eligibility elements, including employment authorization. That TEGL also provides that, for NFJP, self-certification alone cannot be used for employment authorization, and employment authorization must be verified with documentation. NFJP grantees must continue to ensure that their eligibility determination procedures for all applicants, including DACA participants, with employment authorization are consistent with the requirements in TEGL No. 25-04.

7. **Wagner-Peyser Act.** The Wagner-Peyser Act provides employment services to help individuals find meaningful employment and to help employers find the skilled workers that they need. While Wagner-Peyser Act services are not authorized by WIA, they are often delivered alongside WIA services by American Job Centers. Wagner-Peyser Act services are available to all DACA participants.

8. **Resources.** DOL is sharing the DACA resources below to provide accurate information to people who may be eligible to apply for DACA.

   - DACA information and resource are available in English www.uscis.gov/childhoodarrivals and Spanish www.uscis.gov/acciondiferida.

   - Information on how to avoid immigration scams are in English www.uscis.gov/avoidscams and Spanish www.uscis.gov/eviteestafas.

   - "How Do I" guides, including How Do I Request Consideration of Deferred Action for Childhood Arrivals (DACA), are located at www.uscis.gov/howdoi.

9. **Action Requested.** Recipients of this guidance are required to share the TEGL with all appropriate State Workforce Agency, American Job Center, and WIA grantee staff. Recipients are also encouraged to post the resources listed above.

10. **Inquiries**. Additional information on DACA is available from DHS and USCIS at www.dhs.gov/deferred-action-childhood-arrivals and www.uscis.gov/childhoodarrivals. Please direct questions regarding this guidance to the appropriate ETA Regional Office.